

Revised 05/01 WDNY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

05 CV 0488

FORM TO BE USED IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983  
(Prisoner Complaint Form)1. CAPTION OF ACTION

A. **Full Name And Prisoner Number of Plaintiff:** NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Eschell Ashcroft 03-A-1961

2. \_\_\_\_\_

-VS-

B. **Full Name(s) of Defendant(s)** NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants you may continue this section on another sheet of paper if you indicate below that you have done so.

1. dept of corrections

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

FILED  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
2005 JUL 13 PM 1:03

2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

**PLAINTIFF'S INFORMATION** NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Eschell Ashcroft 03-A-1961

Present Place of Confinement & Address: Wendover Corrections Facility

Box 1187

Alden N.Y. 14004

Name and Prisoner Number of Plaintiff: \_\_\_\_\_

Present Place of Confinement & Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DEFENDANT'S INFORMATION** NOTE: To provide information about more defendants than there is room for here, use this format on another sheet of paper.

Name of Defendant: Dept of corrections

(If applicable) Official Position of Defendant: \_\_\_\_\_

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: Wendes Correctional Facility  
Box-1187, Alden N.Y. 14004,

Name of Defendant: \_\_\_\_\_

(If applicable) Official Position of Defendant: \_\_\_\_\_

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Defendant: \_\_\_\_\_

(If applicable) Official Position of Defendant: \_\_\_\_\_

(If applicable) Defendant is Sued in \_\_\_\_\_ Individual and/or \_\_\_\_\_ Official Capacity

Address of Defendant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

- A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?  
Yes \_\_\_\_\_ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): NONE

Defendant(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county): \_\_\_\_\_
3. Docket or Index Number: \_\_\_\_\_
4. Name of Judge to whom case was assigned: NONE
5. The approximate date the action was filed: \_\_\_\_\_
6. What was the disposition of the case? NONE

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved: \_\_\_\_\_

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

**B. Have you begun any other lawsuits in federal court which relate to your imprisonment?**

Yes \_\_\_\_\_ No ✓

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

NONE

2. District Court: \_\_\_\_\_
3. Docket Number: \_\_\_\_\_
4. Name of District or Magistrate Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check the statements which apply):

Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

### 5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- |                      |                        |                                 |
|----------------------|------------------------|---------------------------------|
| • Religion           | • Access to the Courts | • Search & Seizure              |
| • Free Speech ✓      | • False Arrest         | • Malicious Prosecution         |
| • Due Process ✓      | • Excessive Force      | • Denial of Medical Treatment ✓ |
| • Equal Protection ✓ | • Failure to Protect   | • Right to Counsel              |

**Please note that** it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

**Fed.R.Civ.P. 8(a)** states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

**Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

Grieve This matter several times, GRIEVANCE  
not returned as of yet,

A. FIRST CLAIM: On (date of the incident) \_\_\_\_\_,

defendant (give the name and position held of each defendant involved in this incident) \_\_\_\_\_

municipal

did the following to me (briefly state what each defendant named above did): \_\_\_\_\_

The constitutional basis for this claim under 42 U.S.C. § 1983 is:

crue, and unusual punishment  
violation due process of Directive #2612 and corne  
LAW 70 (2)

The relief I am seeking for this claim is (briefly state the relief sought):

monetary Damages,  
injunctive relief,

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? ☒ Yes ☐ No If yes, what was the result? not returned

yet,

Did you appeal that decision? ☐ Yes ☐ No If yes, what was the result? \_\_\_\_\_

*Attach copies of any documents that indicate that you have exhausted this claim.*

**6. RELIEF SOUGHT**

*Summarize the relief requested by you in each statement of claim above.*

① Monetary damages

② injunctive relief


Do you want a jury trial? Yes ☒ No ☐

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed on \_\_\_\_\_

(date)

**NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.**

 03/19/61  
7/7/05

Signature(s) of Plaintiff(s)

DATE 7/7/05 05 CV 0488

TO THE U.S. COURT  
HOUSE AT 68 COURT  
STREET, BUFFALO  
NEW YORK, 14202-3406  
TO JUDGE MARIAN W.  
PAYSON. FROM ESCHER  
ASHCROFT 03A1961. AT  
WENDE CORR FACILITY  
IN SPECIAL HOUSING  
UNIT I AM LEGAL  
BLIND TO THE EXTRE  
ME IN BOTH EYES

1

AND I AM CERTIF  
ied FOR ABOUT 12  
to 13 YEARS. SINCE  
MARCH 14th OF 20  
at my due process  
of the 14th Amendm  
ent IS being violate  
d to its full ext  
ent. THIS CORRECT  
IONAL FACILITY IS  
denying me my  
rights AND MY

2



REASONABLE ACCO  
MODATIONS SUCH  
AS THE SERVICES  
FOR TECHNICAL  
ASSISTANCE AND  
ASSISTIVE DEVICES  
TO PARTICIPATE  
IN VARIOUS PROCE  
EDINGS TO PROTECT  
MY RIGHTS WHILE  
I'M INCARCERAT  
ED, INCLUDING THE  
3

grievance mechanism. hearing or disciplinary and good time proceedings. I AM ALSO being deny the following assistive devices that are need for my blindness while I'm in SHU. ASSISTIVE devices being

4

DENY ARE RAILING  
AND BLACK TOP MAT  
S IN AND OUT THE  
SHOWER'S THE RE  
MOVE ~~THE~~ OF THE  
BUMP IN THE SHO  
WER. DENYING ~~OF~~  
ME OF FACILITY  
RULES AND REGULA  
TIONS AND DOCUME  
NTS IN LARGE PRI  
NT 25 POINTS.

5

ALSO ORIENTATION  
AND MOBILITY INSTRU  
CTION, MOBILITY  
ASSISTANTS / SIGHT  
ED GUIDE, GUIDA  
NCE CANE, TAPE  
PLAYER CASSETTES  
AND HEAD PHONES,  
25 WATTS LAMP,  
VISOR / SUN GLASS  
ES FOR IN DOOR  
OUT USE, 14 INCH

6

V-TECHNICAL READ  
ING MACHINE, BOOK  
S IN LARGE PRINT  
SUCH AS WEBSTER  
DICTIONARY AND  
LAW BOOKS, DESK  
AND CHAIR TO EAT  
MY FOOD INSTEAD  
OF EATING ON THE  
FLOOR. ALSO A LOCK  
ER OR 2 BIG BENS  
TO STORAGE MY  
✓

STUFF INSTEAD OF  
ALL MY THINGS BE  
ING ON THE FLOOR.  
AND ASSISTANCE TO  
TRACE LOST PROPE  
RTY 2 BAGS OF LO  
ST PROPERTY. ALL  
OF THESE THINGS  
ARE BEING DENY TO  
ME FOR NO PLAUSA  
BLE REASON. I W  
AS TOLD VERBALLY  
8

by depts and  
CAPTAINS along  
with superinte  
ndent my ACCO  
modATIONS ARE  
A SECURITY RISK  
IN SHU. AS LONG AS  
I'M SHU I WILL  
NOT RECIEVE OR ge  
t MY ACCOMODAT  
IONS THIS IS WHAT  
I WAS TOLD VERBALLY

9

by these people.  
And they told me  
the only way I  
will receive my  
accommodations  
that is needed  
by my request is  
thru court. So  
I'm asking for  
legal assistance  
to help me to deal  
with this matter

10



ON A LEGAL TERM  
THIS THE ONLY WAY  
I WILL GET WHAT  
I NEED FOR MY  
BLINDNESS INSTEAD  
OF THIS 40/40  
LINE PAPER AND  
20/20 PEN. IF  
YOU GET ANYBODY  
THAT WITH THE  
CORRECTION DEP  
ARTMENT TO IN  
11

investigate this  
matter at hand  
they will deny  
all allegation. I  
can not exhaust  
my remedies with  
out my accommoda-  
tions. please pro-  
vide me with  
some type of as-  
sistance. THANK you  
Evelyn Arnold 03A/1961  
12 6/25/05

P.S. I ~~was~~ send  
you This monthly  
statement so  
that you can  
hear for your  
self how my rig  
hts under the  
A.D.A title 2 of  
the 1973 rehabili  
tation Act, And  
my due process  
of the 14th Amend  
13

ment is being  
violated and  
still being violate  
d to this day of  
June 2005. And  
A lot of these  
tickets I WAS  
not granted to  
the hearings. IF  
you decide to lis  
tening to these  
hearing cassette.

~~14~~ 14

Then you will see  
And hear the tru  
th. Sign yours truly  
Eckel Unkrath 03A1961  
THANK YOU IN ADVA  
NCE FOR YOUR TIME.  
P.S. SINCE 6/25/05  
I do not have any  
power in this cell  
electrical power, and  
under wears, I AM be  
ing deny these things.  
DATE 7/7/05(15)